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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/725,728 | 12/02/2003 | Kwasi Addo Asare | RSW920030191US1 (123) | 3074 |
| 46320 7590 09/16/2008 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487 | | | | |
| EXAMINER | | | | |
| BROPHY, MATTHEW J | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2191 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 09/16/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Communication Re: Appeal

Application No.

10/725,728

Examiner

MATTHEW J. BROPHY

Applicant(s)

ASARE ET AL.

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on _____ is not acceptable because:
- (a) ☐ it was not timely filed.
 - (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
 - (c) ☐ the appeal fee received on _____ was not timely filed.
 - (d) ☐ the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$_____.
 - (e) ☐ the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
 - (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.
2. ☐ The appeal brief filed on _____ is NOT acceptable for the reason(s) indicated below:
- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 41.37(a).
 - (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
 - (c) ☐ the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. ☒ The appeal in this application is DISMISSED because:
- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (c) ☐ a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
 - (d) ☒ other: See Continuation Sheet.
4. ☒ Because of the dismissal of the appeal, this application:
- (a) ☒ is abandoned because there are no allowed claims.
 - (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
 - (c) ☐ is before the examiner for consideration.

Continuation of 3. (d) Other: Applicant failed to file a proper reply to the Notice of Non-Compliant Appeal Brief filed March 18, 2008. While applicant has twice submitted arguments regarding disagreement with the non-compliance, this is not a proper reply. No amended brief has been received, therefore this appeal has been dismissed.

Please see MPEP §1205.03. "Non-Compliant Appeal Brief (37 CFR 41.37)<" to notify appellant that the appeal brief is defective. The appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified..."Moreover, if appellant disagrees with the " holding of noncompliance, a petition under 37 CFR 1.181 >or 41.3< may be filed. >Filing a petition will not toll the time period. Appellant must timely reply to the notice or the Office communication that requires an amended brief....(B) When the Office holds the brief to be defective solely due to appellant 's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office 's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b)."